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8                   UNITED STATES DISTRICT COURT  
9                   WESTERN DISTRICT OF WASHINGTON  
10                  AT TACOMA

11                  DAVID TROUPE,

12                  Plaintiff,

13                  v.

14                  WILLIAM SWAIN, et al.,

15                  Defendants.

16                  CASE NO. 3:16-CV-05380-RJB-DWC

17                  ORDER ON PLAINTIFF'S MOTION  
18                  TO APPEAL AND EXTEND  
19                  TIMELINES AND MOTION TO  
20                  CLARIFY AND COMPEL

21                  The District Court has referred this action, filed pursuant to 42 U.S.C. § 1983, to United  
22                  States Magistrate Judge David W. Christel. Plaintiff David Troupe, proceeding *pro se* and *in forma  
pauperis*, initiated this civil rights action on May 19, 2016. Dkt. 1. Presently pending before the  
23                  Court is Plaintiff's October 11, 2016 Motion to Appeal and Extend Timelines ("Motion for  
24                  Extension"), and Plaintiff's October 13, 2016 Motion to Clarify and Compel ("Motion to Clarify").  
Dkt. 55, 56.<sup>1</sup> After review of the record, Plaintiff's Motion for Extension and Motion to Clarify are  
denied.

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28                  <sup>1</sup> Also pending before the Court are Defendants' Motion to Dismiss and Motion for Summary Judgment,  
29                  which came ready on October 7, 2016.

1           **I. Motion for Extension (Dkt. 55)**

2       In the Motion for Extension, Plaintiff requests all deadlines be extended for 90 days or until  
 3 he is returned to Stafford Creek Corrections Center (“SCCC”).<sup>2</sup> Dkt. 55. Defendants filed a  
 4 response requesting the Motion for Extension be denied. Dkt. 58. Plaintiff filed a document titled  
 5 “Reply to DOC’s Response re: [Summary Judgment]” which also appears to reply to Defendants’  
 6 response to his Motion for Extension. Dkt. 62.

7       Plaintiff contends he was transferred from SCCC to Washington State Penitentiary  
 8 (“WSP”) without all his legal documents. He states he was going to be immediately transferred  
 9 back to SCCC after a court hearing and therefore did not bring his legal documents to WSP. Dkt.  
 10 55. Plaintiff was not returned to SCCC. *Id.* Plaintiff requests the extension of time because he does  
 11 not have his legal documents.

12      Pursuant to Federal Rule of Civil Procedure 6(b), the Court may normally extend a  
 13 deadline for good cause. However, if a motion for an extension is made *after* a deadline, the Court  
 14 may not extend time absent a showing of excusable neglect. Fed.R.Civ.P. 6(b)(1)(B). Here,  
 15 Plaintiff’s response to the Motion to Dismiss was due on September 12, 2016 and Plaintiff’s  
 16 response to the Motion for Summary Judgment was due on October 3, 2016. As Plaintiff signed his  
 17 Motion for Extension on October 4, 2016, Plaintiff’s motion was untimely.

18      The evidence shows Plaintiff’s legal documents were transferred with him from SCCC to  
 19 WSP. *See* Dkt. 60, Exh. B (Order from the Eastern District of Washington stating Plaintiff asserted  
 20 all his legal files had been transferred with him from SCCC to WSP); Dkt. 60, Exh. C, Crane  
 21 Declaration, ¶ 4 (All Plaintiff’s legal property traveled with Plaintiff from SCCC to WSP and none  
 22 of Plaintiff’s legal property remains at SCCC); Dkt. 60, Exh. D, Bradley Declaration, ¶¶ 3-4

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 24      <sup>2</sup> Plaintiff’s response to Defendant’s Motion to Dismiss was due September 12, 2016, and Plaintiff’s  
 response to Defendant’s Motion for Summary Judgment was due Monday, October 3, 2016.

1 (Bradley assisted in unloading Plaintiff and Plaintiff's nine legal boxes upon Plaintiff's arrival at  
2 WSP, and Plaintiff commented to Bradley he did not understand why all his legal documents were  
3 traveling with him to WSP). As the reason Plaintiff alleges he needs an extension of time is  
4 because his legal documents are at SCCC, but the record demonstrates Plaintiff's legal documents  
5 have been with him at WSP throughout the period at issue, Plaintiff has failed to show either good  
6 cause or excusable neglect. Accordingly, Plaintiff's Motion for Extension is denied.

## **II. Motion to Clarify (Dkt. 56)**

8 Plaintiff filed the Motion to Clarify on October 13, 2016. Dkt. 56. In the Motion to Clarify,  
9 Plaintiff requests the Court compel Defendants' counsel, Daniel Judge, to resend every document  
10 filed in this case to Plaintiff. Dkt. 56. He also asks the Court to clarify the status and deadlines of  
11 the case and send all records filed from August, 2016 to October, 2016 to Plaintiff. *Id.* Plaintiff  
12 states he cannot get access to the records in this case.

13 On September 27, 2016, the day after Plaintiff was transferred to WSP, the Court received  
14 notice of his change of address. Dkt. 52. Mailings sent to Plaintiff have not been returned to the  
15 Court. Further, as discussed above, the evidence shows Plaintiff's legal documents were  
16 transferred with Plaintiff to WSP. Plaintiff has failed to provide an adequate reason which would  
17 necessitate Defendants or the Court resending all the documents filed in this case. Accordingly, the  
18 Second Motion to Clarify is denied. The Court notes the deadline for completing discovery is  
19 February 7, 2017, and the deadline for dispositive motions is March 8, 2017.

20 Dated this 1st day of November, 2016.

Nicole Christel

David W. Christel  
United States Magistrate Judge